

SECOND REGULAR SESSION

House Concurrent Resolution No. 46

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FRANKLIN (Sponsor), TILLEY, JONES (89), BROWN (116), SCHAD, JONES (117), BROWN (85), HAEFNER, FUHR, LEARA, SOMMER, ALLEN, FLANIGAN, POLLOCK, CAUTHORN, LAUER, CROSS, WYATT, WETER, RICHARDSON, SCHOELLER, FITZWATER, CONWAY (27), TORPEY, CONWAY (14), SMITH (150), MOLENDORP, LICHTENEGGER, SCHNEIDER, FISHER, PHILLIPS, RUZICKA, CRAWFORD, HIGDON, HOUGHTON AND SCHATZ (Co-sponsors).

6026L.011

WHEREAS, Ameren Missouri owns and manages the Lake of the Ozarks, Bagnell Dam, and Osage hydroelectric plant under its license from the Federal Energy Regulatory Commission (FERC); and

WHEREAS, under its license agreement, Ameren Missouri was required to develop a shoreline management plan, which was submitted to FERC in 2008; and

WHEREAS, FERC regulations require that only land needed for the dam's operation, recreation, shoreline control, and environmental protection be included in the boundary; and

WHEREAS, Lake area residents and visitors enjoy a wide range of recreational activities and opportunities on lakefront property, including a 17,441 acre playground just south of Osage Beach; and

WHEREAS, Lake of the Ozarks State Park is Missouri's largest park with over 85 miles of shoreline and two public beaches, plus boat launching areas; and

WHEREAS, with the significant role that recreational activities play in the economic well-being of the Lake region, the current lakefront access enjoyed by residents, businesses, and visitors is vital to the financial viability and growth of the Lake of the Ozarks; and

WHEREAS, on July 26, 2011, FERC issued its order modifying and approving the shoreline management plan. In its order, FERC required Ameren Missouri to file for FERC approval a detailed report to each nonconforming structure and encroachment and Ameren Missouri's proposed course of action; and

WHEREAS, FERC did not demand or otherwise require any of the nonconforming structures be removed. On August 25, 2011, Ameren Missouri requested that FERC allow them to revise the project boundary to exclude those properties that were not needed to serve the purpose of the project; and

32 **WHEREAS**, Ameren Missouri requested that for those properties located within the
33 current project boundary, where Ameren Missouri owns property in fee, upon which a residential
34 dwelling has been built either in whole or in part, Ameren Missouri would redraw the project
35 boundary to exclude the property, subject to certain conditions, such as environmental
36 assessments, one-time fees, and legal surveys; and

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38 **WHEREAS**, FERC clarified its position and specifically stated that "Nothing in the
39 SMP, the July 26 Order or in this order has any impact on property rights. Whatever rights
40 entities have in lands within the boundaries of the Osage Project - whether conferred by deed,
41 lease, easement, or other conveyance - have not been and will not be altered by action in these
42 proceedings. This Commission has no jurisdiction to rule on property rights, which are matters
43 of state law."; and

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45 **WHEREAS**, FERC did not approve the request to make homeowner's pay for legal
46 surveys or the request for the payment of a one-time fee from the homeowners; and

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48 **WHEREAS**, as part of the creation of the project boundary, Union Electric Land and
49 Development Company reserved an easement to all of the lands that became the Lake of the
50 Ozarks. For approximately 60 years thereafter, Union Electric allowed unrestricted access with
51 little or no permits required; and

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53 **WHEREAS**, developers and property owners acted in relation to that easement without
54 question, with the common understanding that if land adjoining the lake was purchased, access
55 to the water came with such property; and

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57 **WHEREAS**, on January 31, 2012, Ameren Missouri filed its amended shoreline
58 management plan with FERC which included a new project boundary for approval. Ameren
59 Missouri says the new plan will ensure that most, but not all, of the 1,600 homes along the Lake
60 of the Ozarks shoreline are not threatened with removal; and

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62 **WHEREAS**, Ameren Missouri's new shoreline management plan revises the shoreline
63 boundary so that most of the homes are no longer encroaching onto land that is part of the
64 Bagnell Dam hydroelectric project; and

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66 **WHEREAS**, banks and real estate companies in the Lake area warned that removal of
67 homes and other structures would damage an already fragile real estate market; and

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69 **WHEREAS**, the Missouri General Assembly is sensitive to the important nature of these
70 issues for the property owners, citizens, and businesses; and

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72 **WHEREAS**, hoping to end months of anxiety and confusion, to provide certainty, and
73 to facilitate a swift resolution between FERC, Ameren Missouri, and the affected property
74 owners, the Missouri General Assembly urges FERC and Ameren Missouri to cooperate and

75 coordinate the proposed shoreline management plan with local government and the affected
76 property owners; and
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78 **WHEREAS**, coordination works because most federal agencies are specifically directed
79 by Congress to work with local governments through this process before implementing policies
80 or plans that will impact the local community; and
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82 **WHEREAS**, given the impact of these important property questions on real estate
83 transactions within the Lake of the Ozarks region, these property issues must be resolved with
84 the utmost diligence; and
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86 **WHEREAS**, since there is sufficient time prior to FERC's deadline for submission of
87 a revised shoreline management plan in June 2012, Ameren Missouri should work with local
88 government and the affected property owners to ensure that under the amended shoreline
89 management plan no property owners in the affected areas will lose their homes or businesses:
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91 **NOW, THEREFORE, BE IT RESOLVED** that the members of the House of
92 Representatives of the Ninety-sixth General Assembly, Second Regular Session, the Senate
93 concurring therein, hereby strongly urges Ameren Missouri, the Federal Energy Regulatory
94 Commission, and the affected property owners to cooperate in coordinating a swift resolution
95 to the shoreline management plan project at the Lake of the Ozarks that respects the rights of
96 property owners under Missouri law; and
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98 **BE IT FURTHER RESOLVED** that the Chief Clerk of the Missouri House of
99 Representatives be instructed to prepare properly inscribed copies of this resolution for Ameren
100 Missouri and the Federal Energy Regulatory Commission.

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